

## **REMARKS**

### **A. Status of the Claims**

Claims 1-32 were previously pending. In the present response, Applicants have amended claims 1, 29, and 32 to add the elements of claim 3, and Applicants have canceled claim 3. No new matter has been added. Claims 1-2 and 4-32 are now pending, of which claims 1, 29, and 32 are independent.

### **B. Summary of the Final Office Action**

In the Final Office Action mailed on May 3, 2010, the Examiner: (i) rejected the priority claim to U.S. Application 60/533,323 under 35 U.S.C. § 112, first paragraph, because 60/533,323 allegedly fails to enable at least one claim of the present application; (ii) rejected claims 1, 2, 5, 7, 13, 21-25, 27-30, and 32 under 35 U.S.C. § 103(a) as allegedly unpatentable the combined teachings of the Kiselev and Lagae references; and (iii) objected to claims 3, 4, 6, 8-12, 14-20, 26, and 31 as being dependent on a rejected base claim, but indicated that claims 3, 4, 6, 8-12, 14-20, 26, and 31 would be allowable if rewritten in independent form to include all the elements of the base claim and any intervening claims.

### **C. Response to Rejection of the Priority Claim**

Applicants acknowledge that the text and figures of provisional application 60/533,323 is not identical to the text and figures of the present application. However, at least some aspects of the pending claims are disclosed in the 60/533,323 application. For example, certain aspects of claims 16-18 are disclosed on pages 4-10 and 13-21 of the 60/533,323 specification, e.g., interaction between a surface acoustic waves (SAW) in a piezoelectric layer with an excitable layer of a device for generating an oscillating signal. Other aspects of other claims are disclosed

elsewhere throughout the 60/533,323 specification. Because the 60/533,323 specification provides support for at least one claim of the present application, Applicants submit that the priority claim is correct, and Applicants respectfully request withdrawal of the rejection.

**D. Explanation of the Claim Amendments**

Without conceding the merits of the rejections, and in an earnest attempt to advance prosecution, Applicants have amended independent claims 1, 29, and 32 to add the elements of allowable claim 3, and Applicants have canceled claim 3. No new matter has been added.

Applicant submits that this amendment after Final places the claims in condition for allowance by amending the claims in manners that are believed to render all pending claims allowable over the cited art and/or at least place this application in better form for appeal. Applicants did not present the present amendments earlier because Applicants believed that the Response submitted on February 17, 2010 placed the claims in condition for allowance for at least the reasons set forth therein. Accordingly, Applicants respectfully request entry of the present amendments under 37 C.F.R. § 1.116 as an earnest attempt to advance prosecution and/or to reduce the number of issues. In the event that the Office declines to enter the present amendment, and (i) any portion of the present Amendment would place some of the claims in better form for appeal if a separate paper were filed containing only such amendments or (ii) any proposed amendment to any claim would render that claim allowable, Applicants respectfully requests that the Office inform Applicants of the same pursuant to MPEP §714.13.

**E. Response to the § 103(a) Rejection based on Kiselev and Lagae**

Without conceding the merits of the § 103(a) rejection, and in an earnest attempt to advance prosecution, Applicants have amended the claims to further distinguish the pending

claims from the cited references. Applicants respectfully request withdrawal of the rejection in view of the claim amendments.

**F. Conclusion**

Applicants submit that the present application is in condition for allowance, and Applicants respectfully request a Notice of Allowance. If further dialog would advance the application to allowance, the Examiner is invited to telephone the undersigned at 312-913-0001

Respectfully submitted,  
McDonnell Boehnen Hulbert & Berghoff LLP

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By: / Jeffrey P. Armstrong /  
Jeffrey P. Armstrong  
Registration No. 54,967